IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 496 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KAMLESHBHAI RAVJIBHAI PATEL

Versus

CHHOTABHAI ISHWARBHAI PATE, DECD.THRO'HIS HEIRS

Appearance:

1. Appeal from Order No. 496 of 1999

MR JITENDRA M PATEL for Petitioner No. 1

MR VIMAL M PATEL for Respondent No. 1 (absent)

MR RC KAKKAD for Respondents No. 1/1-1/7,5-6

NOTICE SERVED for Respondents No. 2-4

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 01/11/2001

ORAL JUDGEMENT

The appellant-original plaintiff has challenged

in this appeal the impugned judgment and order dated 30.7.99 passed by 3rd Joint Civil Judge (S.D.), Vadodara below Ex.5 in Special Civil Suit No.818/97 rejecting application Ex.5 filed by the appellant-plaintiff. This appeal was straightaway admitted by learned Single Judge of this court on 8.3.2000. Along with this appeal, Civil Application No.11151/99 was filed. The said Civil Application was finally disposed of by the learned Single Judge of this court after hearing the learned counsel for the parties and the respondent was directed to maintain status quo as on the date with respect to the land in question till further orders. Accordingly, the said order of status quo is continued till today.

Learned counsel Shri Patel for the appellants submitted that suit is of old suit of 1997 and till today there is interim order of status quo is operating in favour of the appellant-plaintiff, therefore, without going into the merits, legality and validity of the impugned order passed by the learned Judge below Ex. 5 this appeal may be disposed of with a direction to the learned Trial Judge to decide the main Special Civil Suit No.818/97 as early as possible and till then the interim order of status quo granted earlier by this court on Civil Application No.11151/99 may continue. No one was present for the respondents when the matter was called out.

On facts the request made by Mr.Patel for the appellants seems to be genuine, therefore, granted.

Accordingly, without expressing any opinion on the merits of the impugned order passed by the learned Trial Judge on 30.7.1999 dismissing application Ex.5, this appeal is disposed of with a direction to the Trial Judge to decide the main Special Civil Suit No.818/97 as early as possible and not later than 31.12.2002. Till then the parties shall maintain status quo as ordered earlier by the learned Single Judge of this court on 8.3.2000 on Civil Application No.11151/99 filed in this appeal. Parties shall fully cooperate with the final disposal of the suit and they shall not ask for unnecessary adjournment before the trial court. There shall be no order as to costs.

(B.J.Shethna, J.)

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